

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

Frank Staples, et al., *
*
Plaintiff, *
v. * Civil No. 1:24-cv-00331-LM-TSM
*
Christopher Sununu, Governor, et al., *
*
Defendants. *

**DEFENDANTS’ OBJECTION TO MOTION FOR ENTRY OF DEFAULT AND
DEFAULT JUDGMENT AGAINST EXISTING DEFENDANTS**

Defendants, New Hampshire Governor Kelly Ayotte, New Hampshire former Governor Christopher Sununu, the New Hampshire Attorney General, and Charles O’Leary, by and through counsel, the New Hampshire Office of the Attorney General, hereby move and state as follows:

1. On or around May 20, 2025, this Honorable Court issued an Order on pending motions. ECF No. 53. The Court denied the Defendants’ pending Motions to Dismiss (in light of Plaintiffs having filed an Amended Complaint), and ordered the existing Defendants to file their responsive pleading to said Amended Complaint within twenty-one (21) days of the Court’s Order. *See* ECF No. 53 p. 2-4.
2. The Notice of Decision regarding the May 20, 2025 Order was not issued until May 22, 2025. Twenty-one (21) days from the Notice of Decision was June 12, 2025. Counting from the date of the Order itself, rather than the date Defendants received same, the response deadline would have been June 10, 2025.

3. On June 10, 2025, Defendants filed a Motion to Extend Time to Respond to First Amended Complaint (ECF No. 55), requesting that their deadline to respond to Plaintiffs' Amended Complaint be extended to June 30, 2025.
4. Defendants contacted Plaintiffs prior to filing said Motion to Extend, seeking their assent.¹ *See* Exhibit A attached hereto.
5. Plaintiff Frank Staples responded to undersigned counsel's extension request via email on June 9, 2025, stating that he needed some time to confer with Plaintiff Kathleen Bussiere regarding the extension request. *See* Exhibit A.
6. On June 11, 2025, the day after the Motion to Extend was filed, and a day before the Defendants' responsive pleading would have been due (absent an extension), Plaintiff Staples emailed undersigned counsel stating in part, "I just spoke with Kathleen. *We're fine with the extension.*" Exhibit A (emphasis added).
7. Further, Plaintiff Staples asked, "Do you need me to file something that shows our assent?" Exhibit A.
8. Undersigned counsel responded that there was no need to file anything, as "*the Court will grant ... [the Motion to Extend] based on the lack of objection.*" Exhibit A (emphasis added).
9. Plaintiff Staples thanked undersigned counsel for this clarification, and Plaintiffs thereafter declined to file an objection to the Motion to Extend, consistent with the above.
10. On June 30, 2025, Defendants filed a consolidated Motion to Dismiss Plaintiffs' Amended Complaint. ECF No. 60.

¹ Plaintiffs are familiar with the process for extending deadlines by agreement, having recently sought—and received—an extension of their deadline to file their Amended Complaint with Defendants' assent. *See* March 28, 2025 Order on ECF No. 28 (Plaintiff's Motion to Extend Time to Amend Complaint); *and see* ECF Doc. No. 31 (Defendants' Partial Objection to same).

11. Within hours of filing said Motion to Dismiss, Defendants received electronic notice of several Motions filed by Plaintiffs, including the subject Motion for Entry of Default (ECF No. 57).
12. It appears that now, more than two weeks after Plaintiffs provided their explicit assent to the Defendants' June 30, 2025 extended response deadline, and after Plaintiffs declined to timely object to the June 10, 2025 Motion to Extend (with the understanding that such inaction would indicate their assent to the Motion), Plaintiffs move for entry of default and default judgment against the existing Defendants . *See* ECF No. 57.
13. Incredibly, despite Defendants having filed a Motion to Extend, having discussed such filing with the Plaintiffs, and having obtained Plaintiffs explicit written assent to the relief requested therein, Plaintiffs now represent to the Court that the Defendants “*made no request for extension of their response deadline[.]*” ECF No. 57 ¶ 7 (emphasis added).
14. Plaintiffs request that this Honorable Court take their assertions as true, default the Defendants, and grant the *pro se* Plaintiffs attorney's fees based on the default. ECF No. 57 ¶ 28.
15. Plaintiffs are, at best, confused. At worst, they have made a false representation to this Court in order to induce it to issue an order in their favor and award them damages to which they are not entitled.
16. While Defendants reserve their right to seek sanctions and attorneys' fees against the Plaintiffs for this frivolous and, arguably, bad faith motion practice, they simply note here that Plaintiffs' Motion for Entry of Default is baseless and moot. It must be denied.
17. The Court will recall that Plaintiffs filed a motion for default in the past despite motions to extend being pending, which motion for default was denied. Defendants hereby

incorporate their Objection (ECF No. 12) to said Motion for Default into the present objection. *See* January 13, 2025 Order denying ECF No. 11 Plaintiffs' Motion for Default.

WHEREFORE, Defendants respectfully requests that this Honorable Court:

- A. Deny Plaintiffs' Motion for Entry of Default and Default Judgment Against Existing Defendants (ECF No. 57); and
- B. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Kelly Ayotte, Governor
Christopher Sununu, former Governor
John Formella, Attorney General

By their attorney,

THE OFFICE OF THE ATTORNEY GENERAL

Dated: July 10, 2025

/s/ Shawna Bentley
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and

Charles O’Leary

By his attorney,

JOHN M. FORMELLA
NEW HAMPSHIRE ATTORNEY GENERAL

Dated: June 10, 2025

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via First Class Mail on July 10, 2025 to Plaintiffs’ addresses as listed in the Complaint.

/s/ Shawna Bentley
Shawna Bentley